

Notice of Allowability

Application No.

10/724,379

Examiner

Timothy J. Kugel

Applicant(s)

DIETZ, THOMAS

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to after final amendment filed 7 August 2006.
2. ☒ The allowed claim(s) is/are 1,4,7,10 and 13-19.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Claims 1, 4, 7, 10 and 13-19 are pending as amended on 7 August 2006.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

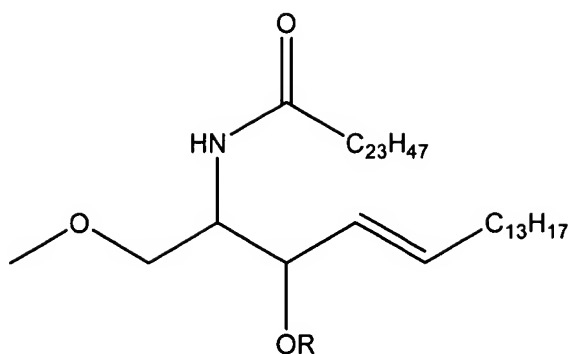
3. Applicant's amendment, filed 7 August 2006, with respect to the status identifier for claim 1 has been fully considered and are corrective.

The objection to claim 1 has been withdrawn.

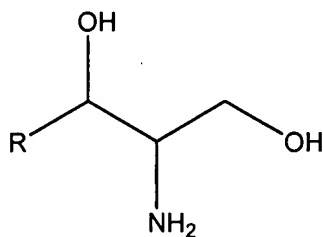
Claim Rejections - 35 USC § 102

4. Applicant's arguments filed 30 June 2006, particularly that US Patent Application Publication 2002/0010215 (Shiroyama hereinafter) teaches a composition comprising a ceramide, which differs from the claimed free sphingoid base in that the latter is a primary amine, have been fully reconsidered and overcomes the prior art.

Applicant has made the above argument without presenting intrinsic or extrinsic evidence to the difference between the ceramide taught by Shiroyama and the free sphingoid base claimed; however, US Patent 5,264,567 (Numata hereinafter) shows



ceramides to have the structure: (Abstract Formula VI) and US Patent 6,248,352 (Semeria hereinafter) shows sphingoid bases to



have the primary amine structure: (Column 2 Formula II).

The rejection of claims 1, 4, 7, 10 and 13-19 under 35 U.S.C. 102(b) as being anticipated by Shiroyama has been withdrawn.

Allowable Subject Matter

5. Claims 1, 4, 7, 10 and 13-19 are allowed

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday-Thursday.

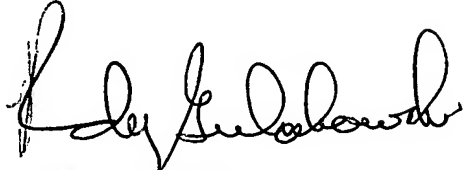
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone

Art Unit: 1712

number for the organization where this application or proceeding is assigned is (571) 273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJK
Art Unit 1712



RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700